

TO: All Personnel
FROM: Emil E. Tahvonen

No. 5 - January 13, 1982
Tax Exempt Properties
Differential rates - services

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

CITIES: Imposition of differential
sewer charges upon tax exempt
organizations and entities

TAXATION: Subjection of tax exempt prop-
erties to taxation through dif-
ferential sewer service charges

A city which builds a new sewer plant financed in part by a millage increase may not impose a higher differential service charge upon tax exempt organizations and entities so that they, in effect, pay their share of the total cost of the plant.

Opinion No. 6006

Honorable Richard D. Fessler
State Representative
The Capitol
Lansing, Michigan 48909

NOV 03 1981

You have requested my opinion on the following question:

May a city which builds a new sewer plant financed in part by a millage increase charge users who are nontaxable a higher sewer rate for the same service so that they, in effect, pay their share of the total cost of the plant?

You have further supplied the following information:

"The taxpayers in this particular city are now paying an additional two-and-one-half mill tax for debt retirement for a new sewer plant. Based on a calculation that it would take an additional 53¢ per 1000 gallons of wastewater to meet the costs of the new plant without the millage, the city set the new rate for service at \$1.88 per 1,000 gallons for tax-exempt properties or organizations and \$1.35 for taxable consumers."

The city system in question is financed primarily by unlimited tax general obligation bonds.

I am advised that, in the establishment of sewer rates, the city council has imposed rates upon customers who are tax-exempt equal to the rate that would be charged all customers if property tax millage was not supporting the system.

I am further advised that the properties which are charged the higher rates include nonprofit organizations and schools as well as the city itself. This action was taken in part because the city interpreted their charter and city code as requiring such differential rates.


The General Property Tax Act, 1893 PA 206, as amended; MCLA 211.7 et seq; MSA 7.1 et seq, § 7, exempts certain property from ad valorem taxation.

A statutory exemption is considered an exemption from general taxes only and not from any liability imposed for special assessments for local improvements. Acadia Park Cemetery v Southfield Township, 83 Mich App 274, 276; 268 NW2d 373, 375 (1978), lv den, 403 Mich 847 (1978). There is no suggestion in the question before me that the ad valorem tax levy is, in fact, a special assessment.

In Auditor General v Union Benevolent Ass'n, 226 Mich 170; 197 NW 552 (1924), a village constructed a sewer system and disposal plant. The village council determined that 40 percent of the cost should be borne by a special assessment district and

A distinction between taxable and tax exempt property has no reasonable basis to the service usage and is, therefore, impermissible.

It is my opinion, therefore, that the city may not charge tax exempt properties a higher rate than other users where such higher rate is based upon the ad valorem taxes from which they are exempt as to direct levy.


FRANK J. KELLEY
Attorney General